

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6769

BILL NUMBER: HB 1115

NOTE PREPARED: Jan 1, 2010

BILL AMENDED:

SUBJECT: Sending of Sexual Material by Cell Phone or Other Media.

FIRST AUTHOR: Rep. Lawson L

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ GENERAL
☒ DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *School Corporation:* The bill provides that a school corporation may offer classes, instruction, or programs regarding the risks and consequences of creating and sharing sexually suggestive or explicit materials.

Defense: The bill also provides defenses to the crimes of disseminating matter that is harmful to minors, child exploitation, and possession of child pornography if a cellular telephone was used and the defendant and recipient of the matter are certain ages and meet other requirements.

Effective Date: July 1, 2010.

Explanation of State Expenditures: *Defense:* By providing an additional defense to child exploitation, a Class C felony; child pornography, a Class D felony; and dissemination or display to minors of material that is harmful to minors or obscene, a Class D felony, the bill could reduce the number of people convicted of these offenses.

Any effects of the bill on admissions to state correctional facilities are expected to be minimal concerning dissemination or display to minors of material that is harmful to minors or obscene since no offenders were committed to a state correctional facility between 2004 and 2008. In that time period, there were on average nine offenders a year committed to a state correctional facility for child exploitation and for child pornography.

Background: Depending upon mitigating and aggravating circumstances, Class C felony is punishable by

a prison term ranging from 2 to 8 years, and a Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor. The average expenditure to house an adult offender was \$20,194 in FY 2009. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$4,818 annually, or \$13.20 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$75,050 in FY 2009. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately two years and for Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Defense:* If fines for this offense are not imposed and collected, revenue to both the Common School Fund and the state General Fund would decrease. The maximum fine for a Class C or Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If a guilty verdict is not entered and the case was filed in a circuit, superior, or county court, criminal costs fee would not be collected and deposited in the state General Fund and other fees such as the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) would not be collected and deposited into the state General Fund.

Explanation of Local Expenditures: *Defense:* Defendants would still be detained in county jails prior to their court hearings. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Defense:* If a guilty verdict is not entered, local governments would not receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: DOC.

Local Agencies Affected: Trial courts, local law enforcement

Information Sources: Indiana Sheriffs' Association; DOC.

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